

BY-LAW NO. 3-20
A BY-LAW OF THE MUNICIPALITY OF ROTHESAY
Respecting Fire Prevention and Protection

Rothesay Council, under authority vested in it by Section 10 and Section 186 of the *Local Governance Act*, SNB 2017, c 18 and regulations thereunder, hereby enacts as follows:

TITLE

1. This By-law may be cited as the "Fire Prevention & Protection By-law".

DEFINITIONS

2. In this By-law:

- a) "**Automatic alarm system**" includes an automatic fire sprinkler system, a fire alarm system and a carbon monoxide alarm system;
- b) "**Council**" means the elected Council of Rothesay;
- c) "**Department**" or "**Fire Department**" means the Kennebecasis Valley Fire Department Inc.;
- d) "**Order**" means an order made under authority of this By-law by the Fire Chief, his designate, or a Fire Prevention Officer;
- e) "**Municipality**" means Rothesay;
- f) "**Fire Chief**" means the Fire Chief, or his designate, of the Kennebecasis Valley Fire Department;
- g) "**Fire Prevention Officer**" means the Fire Chief and those persons appointed pursuant to the *Fire Prevention Act* and Section 5 of this By-law;
- h) "**Officer in Charge**" means the senior officer of the Kennebecasis Valley Fire Department on scene;
- i) "**Consumer Firework**" means an outdoor, low hazard, recreational firework that is dealt with in Part 16, Sections 354 to 359 of the Explosive Regulations, 2013 (SOR/2013-211) of the Federal Explosives Act, and includes but is not limited to fireworks showers, fountains, golden rain, lawn lights, pin wheels, Roman candles, volcanoes and sprinklers;
- j) "**Display Firework**" means an outdoor, high hazard, recreational firework that is dealt with in Part 18, Sections 410 to 449 of the Explosive Regulations, 2013 (SOR/2013-211) of the Federal Explosives Act, and includes but is not limited to rockets, serpents, shells, bombshells, tourbillions, maroons, large wheels, bouquets, bombardos, waterfalls, fountains, batteries, illumination, set pieces and pigeons;

- k) **“Owner”** means the registered owner of property and includes any person, firm or corporation having control over or possession of the property or any portion thereof.
- kl **“Recreational Fire”** means a small, controlled, outdoor fire that is contained in a fire pit or outdoor burning appliance and is normally used for cooking, warmth, or personal enjoyment.

ADOPTION OF CODES/STANDARDS

- 3. Except as modified by this By-law, it is declared that the most recent edition of The National Fire Code, plus any codes/standards referenced therein, is in force in the Municipality.
- 4. The *Fire Prevention Act*, RSNB, 1973, c. F-13, amendments thereto and regulations thereunder, is deemed to be part of this By-Law in like manner as if it were set out herein.

APPOINTMENT OF FIRE PREVENTION OFFICERS

- 5. a) Any person appointed by the Fire Marshal for the Province of New Brunswick as a Fire Prevention Officer shall be a Fire Prevention Officer for purposes of this By-law.
b) Council may appoint any person as a municipal By-law Enforcement Officer for the specific purposes of enforcement under this By-law.
- 6. A Fire Prevention Officer is authorized to enforce the National Fire Code, the *Fire Prevention Act*, amendments thereto and regulations thereunder, together with any other laws of the Province of New Brunswick and the town of Rothesay relating to the prevention and extinguishment of fires.
- 7. Without limiting the generality of the foregoing, a Fire Prevention Officer shall have the same powers under the same conditions as are conferred upon the Fire Marshal by Sections 11, 12, 16, 19(3), 21(1) and 23 of the *Fire Prevention Act*.
- 8. The Fire Chief may establish, revise and maintain a regular system of property fire inspections of buildings and premises. The frequency of such inspections shall be at the discretion of the Fire Chief.

GENERAL PROVISIONS

- 9. Whenever the Fire Chief or Officer in Charge at the scene of a fire deems it advisable to guard the locality of such fire from the crowding of persons or vehicles, they may place or cause to be placed a barrier across any street or public place to indicate the area from which persons or vehicles are prohibited.
- 10. No person, except a member of the Kennebecasis Valley Fire Department, a member of the Kennebecasis Regional Police Force, or persons authorized by the Fire Chief or Officer in Charge shall enter or be within an area marked off by barriers to indicate an area from which persons or vehicles are prohibited.

11. No person shall disobey the orders or directions of the Fire Chief or Officer in Charge while in the performance of their duties at a fire nor shall any person interfere with or obstruct any such officer or any fire fighter while in the performance of any duty at a fire.
12. Every person attending a fire shall, upon the request of the Fire Chief or Officer in Charge, assist any firefighter engaged at such a fire and shall obey all orders and directions given to them by the Fire Chief or Officer in Charge in connection with such fire.

OPEN-AIR BURNING

13. Except as permitted in Section 14, no person shall burn or cause to burn any material out of doors on public or private property within the limits of the Municipality.
14. Recreational fires are permitted within the Municipality provided the following conditions are complied with and subject to any provincial laws or regulations to the contrary:
 - a) The fire is to be in a contained area using only dry, seasoned wood as a fuel and being no larger than one (1) square metre in area; (notwithstanding the foregoing, the use of CSA approved outdoor burning appliances that may use an alternative fuel source are permitted);
 - b) The owner of the property where the recreational fire is located has given consent for the fire;
 - c) Not more than one recreational fire is located on a private lot at any one time;
 - d) The recreational fire is attended at all times;
 - e) A means of extinguishment of the recreational fire is readily available;
 - f) The fire is completely extinguished prior to the recreational fire area being vacated;
 - g) Recreational fires shall not be set in windy conditions conducive to creating a running fire or when the wind is in such a direction or intensity so that the fire or smoke causes discomfort or safety risk to any person or causes loss of enjoyment of normal use of the property in the immediate area as determined by the Fire Chief;
 - h) If smoke from a recreational fire causes an unreasonable interference with the use and enjoyment of another person's property, the fire shall be extinguished immediately;
 - i) No person shall fail to immediately extinguish a recreational fire upon the request of the Fire Chief or Officer in Charge.

BURN BAN

15. Recreational fires are not permitted during periods when the Province has restricted or prohibited open-air burning.
16. Notwithstanding the provisions of this By-law, the Fire Chief may institute a burn ban at any time, as may be deemed necessary in the opinion of the Fire Chief to be in the interests of public safety.
17. No person shall open air burn or allow open air burning at any time during a burn ban.

FIRE PROTECTION SYSTEMS

18. Following the activation, or during a shut-down for any reason, of an automatic alarm system, and where the Fire Department has been unable to make contact with the owner, contact person or occupier, or that person fails to attend and reset the system within forty-five (45) minutes after being contacted, the Fire Chief may contact a qualified service person to restore the Fire Protection/Life Safety System to normal operating conditions. The total cost of restoration of the equipment and related costs of hiring the qualified service person, shall be the responsibility of the owner or occupier.
19. Whereas an inoperable automatic alarm system constitutes an emergency, the Fire Chief may take whatever actions or measures are necessary to meet the emergency, including, but not limited to, evacuating the building or requiring the posting of a fire watch.
20. An owner of property containing an automatic alarm system, where there has been more than one (1) false alarm within a 30 day period, is guilty of an offence.
21. Every owner or occupier of premises having an automatic alarm system, monitored or non-monitored, shall submit, on a form prescribed by the Fire Department, the names and telephone numbers of 3 persons who are available to attend, enter and secure the premises ("Contact Person"). The prescribed form may be obtained from the Fire Department and shall be submitted yearly and upon any change in Contact Person. The form must contain the written consent of each person named to act as a Contact Person.
22. At least one of the Contact Persons established in Section 21 must attend at the premises within 45 minutes when requested by the Fire Department and must secure the premises and when appropriate, release the Fire Department from the incident. When the Fire Department responds to an alarm where the owner has failed to provide a Contact Person or where a Contact Person fails to attend within 45 minutes, the owner or occupier shall pay the applicable standby fee prescribed in Schedule "A".
23. When an owner or occupier fails to provide proper Contact Person information they are guilty of an offence.
24. Upon attending a fire incident, a Contact Person must identify him/herself to the Officer in Charge on scene.

25. A Contact Person must have full access to the building and or occupancy of which they have responsibility and be able to take control of the building or occupancy from the Officer in Charge on completion of the incident.

CONSTRUCTION FIRE SAFETY PLANS

26. Fire safety at construction or demolition sites must be in compliance with Section 5.6 of the National Fire Code and Part 8 of the National Building Code.
27. The owner of a building under construction or renovation which requires the issuance of a building permit under Part 3 or Part 9 (excluding single family dwellings and associated accessory buildings) of the Building Code must submit a Construction Fire Safety Plan for review and approval by the Fire Chief. A Construction Fire Safety Plan template is available from the Fire Department.
28. Subject to Section 27, every building owner undertaking a construction or demolition project which requires a Construction Fire Safety Plan must appoint a responsible person as the Construction Fire Safety Director and submit the name and contact information to the Fire Chief prior to the commencement of the construction or demolition work.

FIREWORKS

29. No person shall set off fireworks when there is a burning ban issued by the Fire Chief or the Province of New Brunswick.

Consumer Fireworks

30. Every person who sets off consumer fireworks shall:
- a) provide and maintain fully operational fire extinguishing equipment ready for immediate use and present at all times for a reasonable period thereafter, at the location or site of the setting off of the consumer fireworks. This includes having knowledge of the operational procedures associated with said fire extinguisher equipment;
 - b) Follow the manufacturer's requirements for the discharge of the fireworks;
 - c) Permit the inspection of any site where consumer fireworks may be stored, set off or displayed, and the consumer fireworks themselves, together with all associated equipment, by anyone authorized to enforce this By-law, forthwith upon demand; and
 - d) comply with the Municipality's Noise By-law.
31. No person shall store, handle or set off Consumer fireworks in an unsafe manner or in a manner that creates a nuisance, taking into account the noise, danger from fire and explosion, and risk of death, injury and damage to property inherent in the storage, handling or use of fireworks.

Display Fireworks

32. No person shall hold a public fireworks display using Display fireworks without first obtaining a permit from the Fire Chief and paying the fee as set out in Schedule "A".
33. A public fireworks display using Display fireworks shall be conducted under the direct supervision of a person who is a licensed fireworks operator.
34. The person holding the display shall be responsible to ensure that the display is conducted in conformance with the current Fireworks Display Manual prepared by Natural Resources Canada.
35. The handling, storage and use of Display fireworks shall be in conformance with the Explosives Act and its Regulations, the National Fire Code and the *Fire Prevention Act*.

FEES AND COST RECOVERY

36. Fees for services provided by the Fire Department are set out in Schedule "A" attached hereto.
37. A person who receives a service listed in Schedule "A" shall pay to the Fire Department the corresponding fee, which is also set out in Schedule "A".
38. Schedule "A" may be amended from time to time by resolution of Council, on consultation with the Fire Chief.

OFFENCES

39. A person who breaches or fails to comply with a provision of this By-law or fails to comply with an order of the Fire Chief, an Officer in Charge or a Fire Prevention Officer commits an offence punishable under Part II of the *Provincial Offences Procedure Act*, SNB1987 c-22.1 as a category E offence, with a maximum fine of five thousand, two hundred dollars (\$5,200.00).
40. No person shall refuse or neglect to carry out any direction of the Fire Chief or Officer in Charge or a Fire Prevention Officer, made pursuant to this By-Law.

ADMINISTRATIVE PENALTIES

41. a) All contraventions of this By-law are designated By-law contraventions that may be dealt with by a notice of penalty pursuant to the provisions of the *Local Governance Act*.
- b) The Administrative penalty for each applicable contravention of this By-law shall be as set out in Schedule "A", failing which the penalty shall be two hundred fifty dollars (\$250.00).
- c) A person to whom a penalty notice is delivered may pay the administrative penalty within 30 days of receipt of the penalty notice at the Municipality's Office.

- d) A person who pays the administrative penalty shall be deemed to have contravened the provision of the by-law in respect of which the payment was made and shall not be charged with an offence in respect of the same incident that gave rise to the administrative penalty.
- e) If the administrative penalty is not paid in accordance with Section 41.c), the person may be charged with an offence pursuant to Section 39 and is liable on conviction to a minimum fine of one thousand, five hundred dollars (\$1,500.00).
- f) Payment of an administrative penalty or a fine does not alleviate the responsibility for compliance with the By-law.

SEVERABILITY

42. If any part of this By-law shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this By-law.

REPEAL and ENACTMENT

43. By-law 3-98, "A BY-LAW OF THE TOWN OF ROTHESAY RESPECTING THE PREVENTION AND SUPPRESSION OF FIRES AND THE REMOVAL, DEMOLITION OF BUILDINGS, STRUCTURES OR OTHER MATERIAL LIABLE TO FIRE" is hereby repealed.

44. The repeal of By-law 3-98 shall not affect any By-law infraction, penalty, forfeiture or liability, incurred before such repeal or any proceeding for enforcing the same completed or pending at the time of repeal.

EFFECTIVE DATE

This By-law comes into effect on the date of final enactment thereof.

FIRST READING BY TITLE: 9 November 2020

SECOND READING BY TITLE: 9 November 2020

(Advertised as to content on the Rothesay website in accordance with Section 15 of the Local Governance Act (S.N.B. 2017, c.18) 30 November 2020

READ IN SUMMARY: _____

THIRD READING BY TITLE AND ENACTMENT _____

Nancy Grant
MAYOR

Mary Jane E. Banks
CLERK

SCHEDULE "A"

ATTACHED TO AND FORMING PART OF BY-LAW 3-20

FIRE SERVICES FEES AND CHARGES

Type	Description	FEE (incl. HST)
Admin	Reports (fire incident, fire investigation, etc.)	\$50 per report
	File search	\$35 per address
	Fire Code compliance letter	\$50 per address
Prevention	Liquor License Inspection	\$100
	Special Occasion permit inspection	\$100
	Annual re-license inspections (non-liquor)	\$75
	Display Fireworks permit	\$100
	Requested Inspection (owner initiated)	\$50/hour
	Apparatus Standby	\$200/hour
Administrative Penalties		
For an offence under Sections 13, 14, 15, 16 and 17	Response to non-compliant open-air burning 1 st time	Penalty N/C
	2 nd response to same address within 30 days	Penalty \$50
	3 rd and subsequent response to same address within 30 days	Penalty \$175
For an offence under Section 20	False alarm – automatic alarm system 1 st time	Penalty N/C
	2 nd response within 30 day period	Penalty \$175
	3 rd and subsequent response within 30 day period	Penalty \$350
For an offence under Section 22	Standby Fees – Section 22	Penalty \$200/hr